

REMARKS

Claims 1, 3, 6-8, 26-28, and 32-38 are pending and currently stand rejected. In an effort to advance prosecution, independent claims 1 and 32 have been amended to more clearly define the implant as "being in the form of a balloon-expandable stent." Support for this amendment can be found throughout the specification, for example in paragraphs 0039 and 0002.

The undersigned thanks Examiner Dawson for the courtesies extended during the telephonic interview on September 11, 2007. During the Interview, differences between the claimed stent device and self-expanding two-layered stent structure described by U.S. Pat. No. 5,630,840 to Mayer ("Mayer") were discussed. No agreement was reached.

In the Office Action, claims 1, 3, 6, 8, 32, 33, and 35 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mayer. Mayer, however, does not disclose a "balloon-expandable stent" as currently claimed. Mayer instead discloses a self-expanding (or resilient) stent formed from a filament including a core 24 and a case 26. (See Mayer, col. 3, lines 39-50, col. 5, lines 11-39, col. 10, lines 41-42). In the medical and stent industry, "balloon-expandable" and "self-expanding" are two mutually exclusive terms of art. Mayer itself recognizes the difference between balloon-expandable and self-expanding stents. (Mayer, col. 5, lines 11-26). Typically, self-expanding and balloon-expandable stents are used for different applications. Unlike self-expanding stents, balloon-expandable stents require a mechanical force to expand the stent diameter. A balloon-expandable stent has to be able to undergo large permanent deformations to change size, while a self-expandable stent needs to resist plastic deformation. A reading of the "Historical Overview" section of *Coronary Stenting - Current Perspectives*, which is attached, clearly differentiates balloon-expandable stents from self-expanding stents. (*Coronary Stenting - Current Perspectives - A Companion to the Handbook of Coronary Stents*, Michael JB Kutryk & Patrick Serruys, 1999, p. 1-16). Because Mayer discloses a self-expanding stent, rather than a balloon-expandable stent, Mayer does not anticipate claims 1, 3, 6, 8, 32, 33, and 35.

With regard to the Examiner's argument that "the claims do not define the stent body in a manner which would prevent only core 24 from reading on the body," Applicants point out that the claims both require "the body capable of maintaining patency in a blood vessel[and] the

body consisting essentially of an alloy comprising tungsten and rhenium.” Together, these claim elements do require that the body, as defined in the claim, cannot read on the combination of the core 24 and the case 26 disclosed in Mayer. The case 26 does not include a tungsten/rhenium alloy, hence the combination of the core 24 and the case 26 cannot be construed to “consist essentially of an alloy comprising tungsten and rhenium.”

Furthermore, the claims do require that the body, which must consist essentially of an alloy comprising tungsten and rhenium, be capable of maintaining patency in a blood vessel. The statement that “[t]he claims do not limit the patency maintaining to be performed only by the stent body” is misleading. While it is true that the claims do not require the stent to consist essentially of an alloy comprising tungsten and rhenium, the claims do require that the body alone be capable of maintaining the patency of a blood vessel. Mayer does not disclose that core 24 is capable of maintaining the patency of a blood vessel, and the Mayer disclosure suggests that core 24 alone would not be capable of maintaining the patency of a blood vessel.

Claims 7, 26-28, 34, and 36-38 were further rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer in view of Campbell, U.S. Pat. No. 5,632,840 (“Campbell”). Claims 7, 26-28, 34, and 36-38 are also allowable over Mayer in view of Campbell for the reasons given above. Neither Campbell nor Mayer discloses or suggests the claimed alloy in a balloon-expandable stent. Furthermore, Campbell does not disclose the claimed tungsten-rhenium alloy and does not provide any disclosure that would give one having ordinary skill in the art a reason to use the alloy of the core 24 of Mayer in a balloon-expandable stent. Accordingly, the rejection of claims 7, 26-28, 34, and 36-38 under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Campbell must also be withdrawn.

Accordingly, each of the pending claims 1, 3, 6-8, 26-28, and 32-38 defines patentable subject matter over the cited prior art. Furthermore, each of the pending claims is believed to be in form for allowance. As such, Applicants request that the Examiner allow all pending claims 1, 3, 6-8, 26-28, and 32-38.

Although Applicants have amended certain claims to advance prosecution, Applicants believe that, before amendment, the claims contained patentable subject matter. As such, Applicants reserve the right to pursue claims of the same or similar scope in the future.

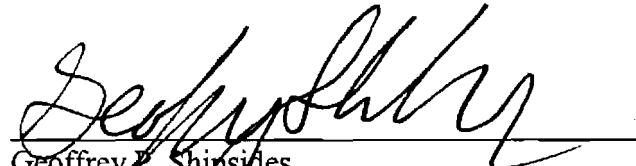
It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Respectfully submitted,

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